

detailed or assigned to EPA under the Intergovernmental Personnel Act. The term does not include special Government employees.

(b) *Special Government employee* means an officer or employee of the Environmental Protection Agency who is retained, designated, appointed or employed to perform, with or without compensation, temporary duties either on a full-time or intermittent basis, for not to exceed 130 days during any period of 365 consecutive days.

(c) *Former employee* means a former Environmental Protection Agency employee, or a former special Government employee.

§ 3.103 Ethical standards of conduct for employees.

Employees may not use their official positions for private gain or act in such a manner that creates the reasonable appearance of doing so.

Employees therefore must not:

(a) Engage, directly or indirectly, in any business transaction or arrangement, including buying or selling securities or recommending the purchase or sale of securities to others, on the basis of information derived from their official positions which has not been made available to the general public;

(b) Use information acquired through EPA duties that has not been made available to the general public to further their private interests;

(c) Use their Government positions to coerce, or appear to coerce, anyone to provide any financial benefit to themselves or others; or

(d) Take any action, whether specifically prohibited or not, which would result in or create the reasonable appearance of:

(1) Using public office for private gain;

(2) Giving preferential treatment to any organization or person;

(3) Impeding Government efficiency or economy;

(4) Losing independence or impartiality of action;

(5) Making a Government decision outside official channels; or

(6) Adversely affecting public confidence in the integrity of the Government or EPA.

§ 3.104 Other general standards of conduct.

(a) *Use of Government property.* Employees must not use or allow the use of, Government-owned or leased property for other than official purposes. Employees have a duty to protect and conserve Government property, especially equipment, supplies and other property entrusted to them.

(b) *Indebtedness.* Indebtedness of EPA employees is essentially a private matter. EPA generally does not act as a collection agency or determine the validity or amount of debts. However, employees are expected to honor just financial obligations and Pub. L. 93-647 provides for garnishment of employees' wages for nonpayment of alimony or child support. In addition, the Debt Collection Act of 1982 at 5 U.S.C. 5514 authorizes agencies to recover employees' debts to the United States through installment deductions from salaries.

(c) *Gambling, betting, and lotteries.* Employees must not gamble on Government property or while on Government duty. Gambling includes operating a gambling device, conducting a lottery or pool, playing a game for money or property or selling or purchasing a numbers slip. However, employees may participate in federally sponsored fund-raising activities under section 3 of Executive Order 10927 of March 18, 1961, or in similar officially approved activities.

(d) *General conduct prejudicial to the Government.* Employees must not engage in criminal, infamous, dishonest, immoral or disgraceful conduct, or any other conduct prejudicial to the Government.

(e) *Statutory prohibitions relating to gifts and decorations.*

(1) Employees must not solicit contributions from other employees for gifts to official superiors or accept gifts from employees receiving less salary than themselves. 5 U.S.C. 7351. However, small voluntary gifts on special occasions such as marriage, illness, death or retirement are permitted.

(2) Employees may not accept gifts, presents or decorations from foreign governments unless authorized by 5 U.S.C. 7342.

(3) Subpart D contains further guidance on gifts, gratuities and entertainment.

§ 3.105 Post-employment restrictions affecting former EPA attorneys.

This section applies where a jurisdiction in which a former EPA employee holds bar membership has adopted Rule 1.11 of the American Bar Association's Model Rules of Professional Conduct dated August 1983, in particular Rule 1.11(d)(2) which provides that the term *matter* includes *any other matter covered by the conflict of interest rules of the appropriate government agency*. In such cases, the term *matter* includes participation (in the form of drafting, providing advice or making recommendations) in the development of EPA regulations. Where a former EPA employee participated in the development of an EPA regulation while employed by EPA, he or she may not represent or assist in representing any party or parties as an attorney in any judicial proceeding to contest the validity of the rule. However, this section applies only where the complaint was not filed before the effective date of this regulation or the date when Rule 1.11 became effective in the jurisdiction, whichever occurs later.

[50 FR 39623, Sept. 27, 1985]

§ 3.106 Statutes relating to employee conduct.

Appendix A of this subpart sets out the *conflict of interest* statutes, together with examples of their application, and appendix B cites other statutory provisions which relate to employees' conduct.

[49 FR 7530, Feb. 29, 1984. Redesignated at 50 FR 39623, Sept. 27, 1985]

APPENDIX A TO SUBPART A—CONFLICT OF INTEREST STATUTES AND EXAMPLES

18 U.S.C. 203

Compensation to Members of Congress, officers, and others in matters affecting the Government.

(a) Whoever, otherwise than as provided by law for the proper discharge of official duties, directly or indirectly receives or agrees to receive, or asks, demands, solicits, or seeks, any compensation for services rendered or to be rendered either by himself or another—

(1) At a time when he is a Member of Congress, Member of Congress-elect, Resident Commissioner, or Resident Commissioner-elect; or

(2) At a time when he is an officer or employee of the United States in the executive, legislative, or judicial branch of the Government, or in any agency of the United States including the District of Columbia—in relation to any proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter in which the United States is a party or has a direct and substantial interest before any department, agency, court-martial, officer, or any civil, military, or naval commission, or

(b) Whoever, knowingly, otherwise than as provided by law for the proper discharge of official duties, directly or indirectly gives, promises, or offers any compensation for any such services rendered or to be rendered at a time when the person to whom the compensation is given, promised, or offered, is or was such a Member, Commissioner, officer, or employee—

Shall be fined not more than \$10,000, or imprisoned for not more than 2 years, or both; and shall be incapable of holding any office of honor, trust, or profit under the United States.

(c) A special Government employee shall be subject to subsection (a) only in relation to a particular matter involving a specific party or parties (1) in which he has at any time participated personally and substantially as a Government employee or as a special Government employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, or (2) which is pending in the department or agency of the Government in which he is serving: *Provided*, that clause (2) shall not apply in the case of a special Government employee who has served in such department or agency no more than 60 days during the immediately preceding period of 365 consecutive days.

Discussion

This provision prohibits employees from accepting fees for representing any outside party in any administrative proceeding before a Federal agency and from sharing in fees earned by others for such activities. For example, an attorney could not share in the partnership income of a law firm to the extent such income is attributable to representational activities before Federal agencies. It does not prohibit receipt of compensation for other than actual appearances as an *agent or attorney* for outside parties; a fee for actual work, such as drafting a brief, is not prohibited. (But see the appearance standards of §§ 3.103 and 3.503). The prohibition covers agreements to receive prohibited fees